

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

COURT OF COMMON PLEAS

2017-CP-23-05529

STATE OF SOUTH CAROLINA,
PLAINTIFF,

vs.

DAVID GREEN AND TONJA FLYTHE
HARKLESS,
DEFENDANTS.

TRANSCRIPT OF RECORD

ORIGINAL

July 19, 2018
Greenville, South Carolina

B E F O R E:

THE HONORABLE ALEX KINLAW, JR., JUDGE.

A P P E A R A N C E S:

JONATHAN M. GREGORY, ESQ.
Attorney for the Plaintiff

DAVID GREEN
Pro Se

TONJA FLYTHE HARKLESS
Pro Se

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HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(PW) -- Denotes Plaintiff's Witness
(DW) - Denotes Defense Witness

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(There were no exhibits introduced.)

P R O C E E D I N G S

1
2 THE COURT: This is in the interest of the State of
3 South Carolina v. David Green. This is case number
4 2017-CP-23-05529.

5 And I've got -- Mr. Jonathan Gregory is here; is that
6 correct?

7 MR. GREGORY: That's correct, Your Honor, from the
8 Solicitor's Office.

9 THE COURT: And you're Mr. Green?

10 MR. GREEN: Yes.

11 THE COURT: All right. Tell me about it.

12 MR. GREGORY: Just briefly, Your Honor. I believe
13 this is a hearing to determine whether or not the
14 Defendant, Mr. Green's mother, who is in the courtroom
15 today -- and her name is Tonja Harkless, I believe.

16 MS. FLYTHE HARKLESS: Flythe Harkless.

17 MR. GREGORY: Flythe Harkless.

18 And she is, actually, a part of this action. I'd ask
19 her to come up to the table.

20 THE COURT: All right. Ma'am, you want to come and
21 have a seat next to him?

22 (WHEREUPON, Ms. Tonja Flythe Harkless came forward.)

23 MR. GREGORY: I'll just give you a little background,
24 Your Honor. On May 16th, 2018, she sent a letter to my
25 office in response to the summons and complaint -- a

1 forfeiture summons and complaint stating that she was an
2 innocent owner of the vehicle. Judge Stilwell then set it
3 for this hearing for today.

4 And I'd be happy to provide the Court a little bit of
5 background, the factual background for the case.

6 THE COURT: Yes, sir. Go ahead.

7 MR. GREGORY: This came out of a car stop on July
8 11th, 2017, on I-85 northbound. Sitting next to me is
9 Deputy Cannon with the Greenville County Sheriff's Office.
10 He stopped the vehicle for an expired tag.

11 During the stop of that vehicle after running the
12 Maryland ID of Mr. Green, who was the sole occupant of the
13 car -- Mr. Green was wanted out of Maryland on a parole
14 violation, I believe. And they wanted him extradited back
15 to Maryland. He was arrested at that time.

16 During the search of the vehicle -- he was the sole
17 occupant of the vehicle. They found 110 grams of heroin,
18 as well as -- I'll give you those exact numbers, Your
19 Honor -- 20.83 grams of cocaine base, which was crack
20 cocaine, 111.96 grams of heroin. And it looks like a
21 grand total of 6.93 grams of marijuana were found in the
22 car.

23 Deputy Cannon, as a result of those trafficking
24 charges, seized the Ford F-350 that he was driving that
25 day. And we commenced a forfeiture hearing.

1 The -- as I said, the arrest happened on 7/11. The
2 first complaint was, actually, filed about a month -- a
3 little over a month later on August 25th, 2017. At that
4 time, we were unaware that the Defendant's mother was the
5 actual registered owner of the vehicle. Once we got
6 information that she was the registered owner of the
7 vehicle, we added her to the complaint under our amended
8 complaint.

9 And that's just the -- the basic facts of the case,
10 Your Honor.

11 THE COURT: All right. Mrs. -- what's your name?
12 Ms. Green?

13 MS. FLYTHE HARKLESS: No. Flythe --

14 THE COURT: Stand up for me.

15 MS. FLYTHE HARKLESS: Flythe Harkless.

16 THE COURT: All right. Raise your right hand.

17 WHEREUPON,

18 TONJA FLYTHE HARKLESS,
19 after first having been duly sworn, testified as follows:

20 THE COURT: Stand up, please.

21 Raise your right hand.

22 Remain standing, ma'am, if you would.

23 WHEREUPON,

24 DAVID GREEN,

25 after first having been duly sworn, testified as follows:

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1 THE COURT: All right. Do you -- you need to sit
2 --down?

3 MS. FLYTHE HARKLESS: Yes.

4 THE COURT: All right. You can have a seat.

5 I'll let both of you have a seat.

6 EXAMINATION

7 BY THE COURT:

8 Q Ma'am, this -- now, this is a -- what -- this is a
9 Ford F-350?

10 A Yes.

11 MR. GREGORY: That is correct, Your Honor.

12 BY THE COURT:

13 Q All right. Ma'am, is that -- is -- that vehicle
14 belongs to you?

15 A Yes, sir.

16 Q When was the vehicle purchased?

17 MS. FLYTHE HARKLESS: When was it? Back in July?

18 BY THE COURT:

19 Q You can't ask him. I'm asking you.

20 A Oh, it's our business.

21 Q You're the one that says it's your vehicle, so I'm
22 asking you.

23 A It's our business.

24 Q What kind of business is it?

25 A We buy cars and trucks. And we sell them.

1 Q What's the name of the business?

2 A David Ray [phonetic] Enterprise.

3 Q All right. So the car was registered to the business
4 or to you?

5 A It's under my name.

6 Q All right. Was it -- was it --

7 A It's part of the business, Judge.

8 Q All right. What do you use the vehicle for?

9 A We were going to fix it. We fixed it up to sell it
10 and to use it until we could sell it.

11 Q All right. But he was -- he was occupying -- he was
12 using the vehicle --

13 A But I did not know that.

14 Q I'm asking you a question. He was using --

15 A That particular --

16 Q Hold on a second. Two things we can't do. You can't
17 talk when I talk.

18 Do you understand that?

19 A Yes, sir.

20 Q All right. My question is, you agree that he was --
21 he was using the vehicle on the day in question?

22 A No, sir.

23 Q He was not?

24 A I did not agree to that.

25 Q I -- I didn't ask you that. I said, as far as you

1 know, he was using the vehicle on that day?

2 A Until I got the call that he was in jail, I did not
3 know he had the vehicle.

4 Q All right. Were you -- did you -- did you use the
5 vehicle on a regular basis? You?

6 A Sometimes, yes, sir.

7 Q All right. How often would you use the vehicle?

8 A Maybe on the weekends.

9 Q All right. Do you have your own car?

10 A I had another car, yes.

11 Q Okay. What kind of car do you got now?

12 A Now, I have an Altima.

13 Q Do you have more than one vehicle?

14 A My son has another car.

15 Q I'm talking about you. You --

16 A Me and my -- completely by myself is just --

17 Q The car that you drive all the time, what --

18 A It's an Altima.

19 Q -- kind of car -- is that an Altima?

20 A Excuse me?

21 Q Is that an Altima, you said?

22 A Yes, sir.

23 Q What year is it?

24 A It's a '15.

25 Q 2015?

1 A Yes, sir.

2 Q All right. So you're telling me that you didn't know
3 that this vehicle -- that your son was using this vehicle
4 on that day?

5 A No, sir. I did not know.

6 Q And you only found that out when?

7 A He got locked up. And we looked for him. And we
8 found out that he was in jail in this county.

9 Q You -- do you still have that business that you --
10 the car business?

11 A Well, it's been on hold because all the papers were
12 in the truck.

13 Q All the papers to what?

14 A All the business papers, all the car liens --

15 Q Why would it be in that truck?

16 A -- the titles --

17 Q Why would it be in that truck?

18 A Because that was the truck we left the things and the
19 paperwork in.

20 Q Why?

21 A That was just the truck, like, it was a work truck.

22 I didn't --

23 Q So it had all the paperwork for all the other

24 vehicles?

25 A Yes, sir.

1 Q To all the other vehicles on the park -- in the lot?

2 A All the other vehicles that we possess as part of the
3 business.

4 Q Okay. You didn't -- you didn't have an office?

5 A No. We worked out of our house.

6 Q All right. And this was -- this was the work vehicle
7 that kept all the documents for all the vehicles that
8 you -- who -- who was the proprietors in the business?
9 You and who else?

10 A Him.

11 Q Just the two of you. The two of you ran the
12 business?

13 A Yes.

14 Q And you had all your business --
15 I'm going to get to you in a minute.

16 And you had all -- all your business documents in the
17 truck?

18 A At that time, yes.

19 Q All right. All bookkeeping records, anything that
20 had anything to do with the business was in that truck?

21 A Most of it, yes. Our titles --

22 Q Where's the rest of it at?

23 A Our titles -- the rest of it was at home.

24 Q Why wouldn't all of it -- why didn't all the other
25 titles and business documents be at your house -- why

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1 wouldn't all the others be at your house, instead of in
2 the truck?

3 A Because we sell -- we go around and we sell the cars.
4 And that way, I would have the possession -- the paperwork
5 right there in the truck.

6 THE COURT: All right. Mr. Gregory, do you got any
7 questions for her?

8 MR. GREGORY: The only question I have, Your Honor,
9 is --

10 CROSS-EXAMINATION

11 BY MR. GREGORY:

12 Q Just to clarify. The business -- the David Green
13 Enterprise is in his name; correct?

14 A It's under him. But we're both on it --

15 Q Under him?

16 A Yes.

17 Q So he is the registered owner of the business?

18 A Of the business. But I'm the registered owner of the
19 truck.

20 Q Okay. And all the paperwork for that David Green
21 Enterprise was in that truck; correct?

22 A It should have been, most of it.

23 MR. GREGORY: Okay. That's all I have concerning

24 that aspect, Your Honor.

25 THE COURT: All right.

EXAMINATION

1

2 BY THE COURT:

3 Q Mr. Green, now, you -- you're in the business with
4 your mother?

5 A Yes.

6 Q All right. And you don't deny that you were in the
7 truck on that day in question?

8 A No.

9 Q No, sir.

10 A No, sir.

11 Q And you -- she indicates that all the business
12 records, all the titles to any vehicle that you or your
13 mother sold was in the truck?

14 A Yeah. It was --

15 Q Yes, sir.

16 A Yes, sir. It was inside the little black -- what you
17 call it? Clipboard. There was a clipboard that opens up.

18 THE COURT: All right. Anything you want to ask him?

19 MR. GREGORY: I -- I don't have anything further than
20 that, Your Honor. I do have --

21 THE COURT: Go ahead.

22 MR. GREGORY: Other areas I'd like to --

23 THE COURT: Go ahead.

24 MR. GREGORY: -- point --

25 THE COURT: Go ahead.

1 MR. GREGORY: In addition to him owning the company
2 that this truck supposedly belonged to with all the
3 paperwork in there that belonged to David Green
4 Enterprise, it sounds like this was a mobile office that
5 she should have known was being used by Mr. Green.

6 Furthermore, according to the Maryland -- the warrant
7 out of Maryland, he had just got out of jail for a
8 nine-year stretch for possession with intent to distribute
9 crack cocaine, Your Honor.

10 So I think all of this combined together would put
11 her on notice that that's what this car was being used
12 for, driving to Atlanta and back to Maryland.

13 EXAMINATION

14 BY THE COURT:

15 Q All right. Anything you want to tell me, ma'am?

16 A Sir?

17 Q Anything you want to tell me?

18 A Yeah. How would I know what my grown son is doing in
19 his private life. I work every day, too.

20 Q You had no -- no knowledge of his involvement --

21 A No, sir.

22 Q When's the first time you found that out?

23 A When he got locked up.

24 Q You had no earthly idea --

25 A No, sir. We were selling. We -- that was what we

1 were doing was buying cars, and purchasing cars and
2 trucks, and selling them.

3 Q Where would you get your vehicles from?

4 A We buy them -- we live in the county. People have
5 them sitting outside. We go to other people that we know
6 that have lots and we would buy little -- buy them from
7 them.

8 Q In state or out of state?

9 A Instate.

10 Q Do you know why -- why your son was traveling from
11 Maryland to Georgia?

12 A All I knew is that he was supposed to be taking his
13 brother back to Atlanta. I don't know when they was
14 supposed to go. I knew it was my son -- David's birthday.
15 So I didn't know when they was leaving.

16 When I found out anything is when I searched for my
17 son. I couldn't find him. He didn't call me. And I
18 found out he was in Greensvilles [sic] detention center.

19 THE COURT: All right. Anything from either side?

20 MR. GREGORY: Nothing further, Your Honor.

21 THE COURT: Anything else you want to tell me?

22 MR. GREEN: Yes. As far as them saying that they
23 didn't know that this was her vehicle, he knew it when he
24 ran -- he ran the tag and registration and it came back to
25 my momma.

1 I left and went out of town. My truck wasn't ready.
2 The stereo was out of it. So I went away for my birthday.
3 I couldn't take my car, so I took the truck and left with
4 that.

5 Now, like I said, the officer, he knew --
6 Mr. Jonathan knew. He did a revisory. He thought the
7 truck was just mine. And he sent me a -- a Common Pleas
8 thing for trial, which was filed back in -- October the
9 25th, which at that time, I related to my mother that they
10 sent me a forfeiture paper.

11 She had already talked to them. I told her that the
12 police got the truck when I got locked up. She called the
13 sheriff's department. They told her that she could come
14 down there and get the stuff out of the truck, but to call
15 them and let them know. Because they was putting in for
16 seizure of the truck.

17 When she called them when she was coming -- when she
18 was able to come down here, they told her that she
19 couldn't get anything out of the truck now because it's --
20 it's being forfeited [sic] on. She talked to
21 Mr. Gregory.

22 And then after that, he waited all the way until
23 April the 16th to refile a second amendment on this with
24 something he had already knew that was not my vehicle from
25 the beginning. He asked her to send him the title -- a

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1 copy of the title to the truck because he thought the
2 truck was mine. I have paperwork right here showing that
3 they have it from the tow yard.

4 THE COURT: But you were a partner in David Green
5 Enterprise, weren't you?

6 MR. GREEN: Yes. I am David Green. And I opened
7 up -- I opened up --

8 THE COURT: Are you in that business with your
9 mother?

10 MR. GREEN: Yes. I took her in because she's
11 shorthand on money. She needed extra -- some extra
12 income. And, obviously, I was already buying and selling
13 cars. I used to work for a car lot. And that's when I
14 started getting the idea of selling cars.

15 THE COURT: All right. Anything else?

16 MR. GREEN: That's all I can really tell you about,
17 other than, you know, the time -- the time that it took
18 for them to do this was way -- way over. It took way too
19 long. He already knew.

20 And all the sudden, it -- it starts switching up
21 from -- by the time I wrote the court of clerk, they told
22 me I should have had this case back in May.

23 THE COURT: I understand.

24 MR. GREEN: And now, it's just coming up.

25 THE COURT: Mr. Gregory, anything else?

1 MR. GREGORY: Nothing from the State, Your Honor.

2 THE COURT: All right. I find that the Court
3 continues to have jurisdiction. I, also, make the
4 following findings: I find that the property should be
5 forfeited to the State of South Carolina pursuant to
6 Section 44-53-530 of the South Carolina Code of Laws.
7 Title of the property will be vested and transferred to
8 GCSO.

9 Okay. Do me an order. Do me a Form 4 on that.

10 MR. GREGORY: Thank you, Judge.

11 THE COURT: All right. Thank you.

12 *****END OF TRANSCRIPT OF RECORD*****

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CERTIFICATE OF REPORTER

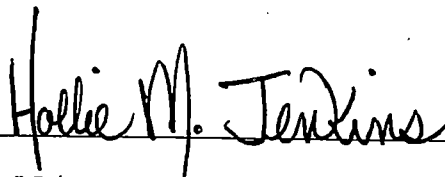
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 19th day of July, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 21, 2019



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

David Green # 300923-0355

Greenville County Detention Center
20 McGee Street
Greenville SC 29601

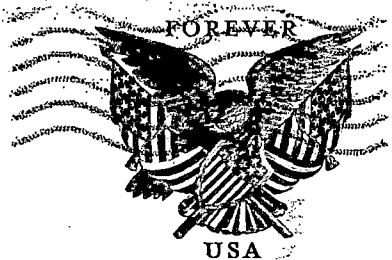
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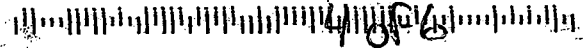


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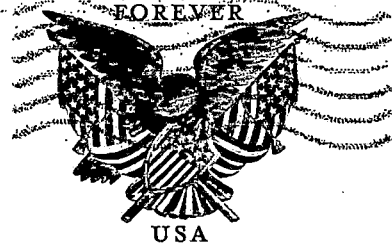
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